

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ANTHONY SHAFFER,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:10-02119 (RMC)
)	
DEFENSE INTELLIGENCE AGENCY, et)	
al.,)	
)	
Defendants.)	
)	

DEFENDANTS' STATUS REPORT

Defendants, through their undersigned counsel, respectfully submit this report pursuant to the Court's Scheduling Order of February 13, 2013.

1. Defendants hereby notify the Court, as ordered in paragraph 1 of the Scheduling Order, that they will not provide Plaintiff with access to a secure government computer to prepare his declaration.

2. The extraordinary access requested by Plaintiff is inappropriate and unnecessary. A classification review process is already in place for written materials intended for publication or dissemination if they involve, as would Plaintiff's declaration in this case, intelligence or military matters. *See* Department of Defense (DoD) Instruction 5230.29, *Security and Policy Review of DoD Information for Public Release* (Jan. 8, 2009). Plaintiff is therefore required under his nondisclosure agreements and DoD regulations to submit his declaration to the DoD Office of Security Review (OSR) and obtain clearance prior to disclosing the declaration to anyone.

3. The U.S. Government will conduct a classification review of Plaintiff's declaration once submitted to OSR, and OSR will return a cleared version to Plaintiff in accordance with the Scheduling Order. If the Government identifies any classified information in Plaintiff's submission, that information will be redacted from the cleared version. Plaintiff may disclose to his lawyer only the cleared (and potentially redacted) version of the declaration, and only this version may be filed publicly with the Court.
4. Defendants will incorporate Plaintiff's original, unredacted declaration to the administrative record that will be filed *ex parte* and *in camera* with Defendants' motion for summary judgment.¹

Dated: February 27, 2013.

Respectfully submitted,

STUART F. DELERY
Principal Deputy Assistant Attorney General

ANTHONY J. COPPOLINO
Deputy Director, Federal Programs Branch

/s/ Scott Risner
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Attorneys for Defendants

¹ The Court previously indicated that it may hold a telephonic status conference in this case. Defendants respectfully submit that an additional status conference is unnecessary at this time, but if the Court determines otherwise, Defendants ask that the conference not be scheduled between March 7, 2013 and March 19, 2013 due to the unavailability of counsel.